

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:12-CV-00023-F

JOEL CAPLIN, Individually and on Behalf of)
All Other Persons Similarly Situated,)
)
)
Plaintiff,)
)
)
v.)
)
)
TRANS 1, INC., KENNETH REALI,)
JOSEPH P. SLATTERY, RICHARD)
RANDALL, and MICHAEL)
LUETKEMEYER,)
)
)
Defendants.)

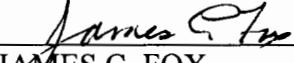
ORDER

The court takes judicial notice of the automatic stay in effect as the result of the bankruptcy petition filed by Defendant TranS1, Inc. (“TranS1”) in the Bankruptcy Court for the District of Delaware. *See* Notice of Bankruptcy Filing and Automatic Stay [DE-68] (the “Notice”). Consequently, this action is STAYED as to any claims asserted against TranS1. However, it is unclear whether this action should be stayed as to Defendants Reali, Slattery, Randall, and Luetkemeyer (the “Individual Defendants”). The Notice’s language implies that the entire action pending before this court is automatically stayed. While it is true that Section 362(a) of the Bankruptcy Code operates as an automatic stay as to the bankruptcy petitioner, *see* 11 U.S.C. § 362(a), “[i]t is well established that the automatic stay does not extend to a debtor’s non-bankrupt co-defendants even if they are in a similar legal or factual nexus with the debtor,” *In re 3901 Foods, LLC*, No. 09-06772-8-JRL, 2009 WL 2982774, at *1 (Bankr. E.D.N.C. Sept. 10, 2009) (internal quotation marks omitted). Accordingly, the parties are DIRECTED to brief

whether this case may proceed as to the Individual Defendants. The parties shall have up to and including **December 12, 2014** to file their briefs. When the briefs are filed, the parties may move to respond if they wish to do so.

SO ORDERED.

This, the 2nd day of November, 2014.



JAMES C. FOX
Senior United States District Judge